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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF ALASKA

14
15 EQUAL EMPLOYMENT OPPORTUNITY
16 COMMISSION,

17 Plaintiff

18 v.

19 PARKER DRILLING COMPANY

20 Defendants.
21

CIVIL ACTION NO.

COMPLAINT

*AMERICANS WITH DISABILITIES ACT
ACTION (42 U.S.C. § 12117(a)) AS
AMENDED BY THE ADA AMENDMENTS
ACT OF 2008, 42 U.S.C. § 12101 et. seq.*

JURY TRIAL DEMAND

22
23 NATURE OF THE ACTION

24 This is an action under Title I of the Americans with Disabilities Act, as amended by the
25 ADA Amendments Act of 2008, 42 U.S.C. § 12101 et. seq., (“ADA” and “ADAAA”) to correct

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EQUAL EMPLOYMENT
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1 unlawful employment practices on the basis of disability and to provide appropriate relief to
2 Kevin McDowell, who was adversely affected by such practices. The Equal Employment
3 Opportunity Commission alleges that Parker Drilling Company ("Defendant") discriminated
4 against Mr. McDowell, a qualified individual with a disability, when it failed to hire Mr.
5 McDowell for a drill site manager position because of his actual disability or because Defendant
6 regarded him as being disabled.

7 8 JURISDICTION AND VENUE

9 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,
10 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the
11 Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporate by
12 reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
13 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991,
14 42 U.S.C. § 1981a.

15 2. The employment practices alleged to be unlawful were committed within the
16 jurisdiction of the United States District Court for the District of Alaska.

17 PARTIES

18 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is
19 the agency of the United States of America charged with the administration, interpretation and
20 enforcement of Title I of the ADA and is expressly authorized to bring this action by Section
21 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1)
22 and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1).

23 4. At all relevant times, Defendant has continuously been doing business in the State
24 of Alaska and has continuously had at least 15 employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, Defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Kevin McDowell filed a charge with the Commission alleging violations of Title I of the ADA by Defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least February 2010, Defendant has engaged in unlawful employment practices at its Anchorage, Alaska facility, in violation of Sections 102(a) and 102(b)(6) of Title I of the ADA, 42 U.S.C. §§ 12112(a) and 12112(b)(6). The Defendant discriminated against Kevin McDowell when it failed to hire him for a tool pusher position, also known as a drill site manager position, because of his disability, in violation of Sections 102(a) and 102(b)(6) of the ADA. Mr. McDowell is qualified for the position as he had previously performed all of the essential functions of similar jobs successfully and without any accommodation.

9. Kevin McDowell is an individual with a disability. He is blind in his left eye, which substantially limits the operation of Mr. McDowell's visual system, a major life activity. With this impairment, Mr. McDowell has worked for oil drilling companies from 1978 to the present. He had worked for Defendant Parker Drilling Company from 1978 to 1982 in a number of positions on the drill floor. On or about January 19, 2010, Mr. McDowell applied for a tool pusher position, also known as a drill site manager position, and Defendant interviewed him. Defendant offered Mr. McDowell the position of a junior drill site manager and told him that he would later be promoted to a senior drill site manager. Defendant scheduled Mr. McDowell for a physical examination, which occurred on January 25, 2010, and Defendant also instructed him to

1 return later that week to start his training for the new position. However, upon receiving Mr.
2 McDowell's physical examination results on approximately February 1, 2010, Defendant
3 notified Mr. McDowell that it would not hire him for any position. Defendant made the decision
4 not to hire Mr. McDowell on the basis of disability.

5 10. In addition, Defendant regarded Mr. McDowell as having a disability in that
6 Defendant failed to hire him because of his impairment, blindness in his left eye.

7 11. The effect of the practices complained of in paragraph 8-10 above has been to
8 deprive Mr. McDowell of equal employment opportunities and otherwise adversely affect his
9 status as an employee.

10 12. The unlawful employment practices complained of in paragraph 8-10 above were
11 and are intentional.

12 PRAYER FOR RELIEF

13 Wherefore, the Commission respectfully requests that this Court:

14 A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors,
15 assigns, and all persons in active concert or participation with it, from unlawfully failing to
16 provide equal employment opportunities to applicants for employment and employees with
17 disabilities and to accommodate applicants' and employees' disabilities, and any other
18 employment practice which discriminates on the basis of disability.

19 B. Order Defendant to institute and carry out policies, practices, and programs which
20 provide equal employment opportunities for qualified individuals with disabilities, and which
21 eradicate the effects of its past and present unlawful employment practices.

22 C. Order Defendant to make whole Kevin McDowell by providing appropriate back
23 pay and front pay with interest, in amounts to be determined at trial, and other affirmative relief
24 necessary to eradicate the effects of its unlawful employment practices.

25 D. Order Defendant to make whole Kevin McDowell by providing compensation for
past and future pecuniary losses resulting from the unlawful employment practices described in

1 paragraphs 8-10 above, including past and future out-of-pocket losses, in amounts to be
2 determined at trial.

3 E. Order Defendant to make whole Kevin McDowell by providing compensation for
4 past and future non-pecuniary losses resulting from the unlawful practices complained of in
5 paragraphs 8-10 above, including emotional pain, suffering, inconvenience, loss of enjoyment of
6 life, and humiliation, in amounts to be determined at trial.

7 F. Order Defendant to pay Kevin McDowell punitive damages for its malicious and
8 reckless conduct, as described in paragraphs 8-10 above, in amounts to be determined at trial.

9 G. Grant such further relief as the Court deems necessary and proper in the public
10 interest.

11 H. Award the Commission its costs of this action.

12 JURY TRIAL DEMAND

13 The Commission requests a jury trial on all questions of fact raised by its
14 complaint.

15 DATED this 18th day of September, 2013

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1 BY: /s/William R. Tamayo

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